

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #2	CCRB Case #: 202006816	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/12/2020 6:40 PM	Location of Incident: 3rd Avenue and Hamilton Avenue	Precinct: 72	18 Mo. SOL 4/12/2022	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 10/12/2020 6:40 PM	CV Reported At: Precinct	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/13/2020 12:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Kurek	19134	958781	072 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Anibal Morales	25856	939069	072 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Patrick Kurek	Abuse: Police Officer Patrick Kurek issued a summons to § 87(2)(b)	

Case Summary

On October 12, 2020, § 87(2)(b) filed this complaint at the 72nd Precinct stationhouse over the phone. It was received by the CCRB on October 13, 2020.

On October 12, 2020, at approximately 6:40 PM, § 87(2)(b)'s vehicle was pulled over by Police Officer Patrick Kurek and Police Officer Anibal Morales, of the 72 Precinct, for making an illegal left turn in the vicinity of 3rd Avenue and Hamilton Avenue in Brooklyn. Police Officer Kurek wrote § 87(2)(b) a summons for the illegal turn and approached his vehicle. § 87(2)(b) took a photograph of Police Officer Kurek on his cell phone and pointed out that Police Officer Kurek was not wearing a facemask. Police Officer Kurek returned to his vehicle and wrote § 87(2)(b) a second summons for having an air freshener hanging from his rearview mirror (**Allegation A: Abuse of Authority – Retaliatory summons**, § 87(2)(g)). Police Officer Kurek gave both summonses to § 87(2)(b) and § 87(2)(b) drove away. § 87(2)(b) received two summonses, one for "disobeyed traffic device" and another for "driver's view obstructed" (**BR 07**).

Body-worn camera (BWC) videos from the BWCs of Police Officer Patrick Kurek and Police Officer Anibal Morales were received. The footage is in IAs #34-35 (**BR 01; BR 02**) and is summarized in IA #38 (**BR 03**).

Findings and Recommendations

Allegation (A) Abuse of authority: Police Officer Patrick Kurek issued a summons to § 87(2)(b)

On November 2, 2020, § 87(2)(b) was interviewed over the phone (**BR 04**). On January 27, 2021, Police Officer Kurek was interviewed (**BR 05**).

It is undisputed that Police Officer Kurek stopped § 87(2)(b)'s vehicle for making an illegal left turn. Police Officer Kurek obtained § 87(2)(b)'s license and registration, returned to his vehicle, and wrote § 87(2)(b) a summons for the illegal left turn. When he approached § 87(2)(b)'s vehicle with the summons, § 87(2)(b) appeared to take a photograph of Police Officer Kurek with his cell phone. Police Officer Kurek asked § 87(2)(b) if something was wrong. § 87(2)(b) pointed out that Police Officer Kurek was not wearing a facemask. Police Officer Kurek put his facemask on and asked § 87(2)(b) if he felt safer. Immediately after, Police Officer Kurek went back to his police vehicle and returned to § 87(2)(b)'s vehicle with an obstruction of view summons for the air freshener hanging from § 87(2)(b)'s rearview mirror. Police Officer Kurek gave both summonses to § 87(2)(b) and said, "You have no respect for us."

§ 87(2)(b) stated that after he took a photo of Police Officer Kurek, Police Officer Kurek's facial expression changed and he appeared upset. When Police Officer Kurek put his facemask on, he asked § 87(2)(b) something along the lines of, "Now it's okay for you?" or, "Is this safer now?" § 87(2)(b) found Police Officer Kurek's tone when he made these statements to be "rude." After Police Officer Kurek got upset, he looked at § 87(2)(b)'s car in what § 87(2)(b) believed was an attempt to find something else to issue him a summons for.

At 12:49 of Police Officer Kurek's BWC video (**BR 01**), he returns to § 87(2)(b)'s vehicle with a summons. Upon reaching the window, § 87(2)(b) is holding up his cell phone and pointing it at him. Police Officer Kurek asks, "Is everything okay?" § 87(2)(b)'s response is not captured in the audio. Police Officer Kurek says, "I have a mask, it's right here. You want me to put it on for you?" Police Officer Kurek puts on his facemask and says, "It makes no difference. Here you go. I'm putting it on." He asks § 87(2)(b) "Do you feel safer now?" and then immediately says, "Wait, give me one more second." He begins walking toward his vehicle and as he passes Police Officer Morales he says, "He has an air refresher." At 15:19 into the video, Police Officer Kurek approaches § 87(2)(b)'s vehicle and tells him he is getting two summonses. § 87(2)(b) tells Police Officer Kurek, "This is my first time in my life I've been pulled over." Police Officer Kurek says,

“Clearly you have no respect for us. You have zero respect for us.” § 87(2)(b) says, “I apologize if that’s what you think” and, “I have a lot of respect for you.” § 87(2)(b) drives away.

Police Officer Kurek stated that upon pulling § 87(2)(b)’s vehicle over for the left turn, he noticed he had an air freshener hanging from his rearview mirror. He decided to write the obstruction of view summons at the same time he decided to write the summons for the illegal turn, which was before he obtained § 87(2)(b)’s license and registration and returned to his vehicle for the first time and wrote the initial summons for the illegal left turn. When he approached § 87(2)(b)’s vehicle to give him the summons for the illegal left turn, he realized he had forgotten to write a summons for the obstruction of view violation. When he realized this, he returned to his vehicle to write it.

Police Officer Kurek stated in situations like § 87(2)(b)’s where he observed both an illegal turn and an obstruction of view violation, he would sometimes write an obstruction of view summonses in addition to a turning violation summons and sometimes he would not. When asked why he decided to issue the obstruction of view summons during this incident, Police Officer Kurek stated because he observed two violations and he used his discretion. When asked if there were any factors that prompted him to use his discretion to write the obstruction of view summons, Police Officer Kurek said he did not recall. Police Officer Kurek did not recall having any conversation with § 87(2)(b) about wearing a facemask and he did not recall § 87(2)(b) taking a photo or a video of him. Police Officer Kurek also did not recall any conversation with § 87(2)(b) after he issued him the obstruction of view summons.

After viewing from 12:41 to 13:08 of his BWC video (**BR 01**) during his CCRB interview, Police Officer Kurek was asked if his conversation with § 87(2)(b) during this part of the incident influenced his decision to give him the second summons, to which he said it did not. After viewing 15:51 to 16:15 of the video, Police Officer Kurek was asked to speak to his statements of “clearly you have no respect for us,” and, “you have zero respect for us,” to which he said he did not know how to explain it. When asked what he meant by these statements, Police Officer Kurek said he guessed that was how he felt in the moment. When asked what § 87(2)(b) did during their interaction that indicated he had no respect for him, Police Officer Kurek said he did not remember. When asked at what point in his interaction with § 87(2)(b) did he begin to feel § 87(2)(b) had no respect for him, Police Officer Kurek stated he did not recall.

When asked if § 87(2)(b) requesting that he wear a facemask indicated to him that § 87(2)(b) had no respect for him, Police Officer Kurek said that was not why. When asked if § 87(2)(b) taking a photograph/video of him, indicated to Police Officer Kurek that § 87(2)(b) had no respect for him, Police Officer Kurek said § 87(2)(b) was allowed to take videos/photos. When asked if there was anything in the BWC video that he could point to that indicated § 87(2)(b) had no respect for him, Police Officer Kurek said there was not. When asked if the feeling that § 87(2)(b) had no respect for him had any influence on his decision to issue the second summons for the obstruction of view violation, Police Officer Kurek stated it did not.

Patrol Guide Procedure 203-10 (**BR 08**) prohibits engaging in conduct prejudicial to the good order, efficiency or discipline of the Department.

In DCT Disciplinary Case No. 80514/04 (**BR 09**), a thirteen-year member of the NYPD forfeited ten vacation days and received reinstruction regarding the Department’s Courtesy, Professionalism, and Respect policy for issuing summonses as a weapon of retaliation against a complainant who called him a “fucking liar” in traffic court and another who told him to have a “nice fucking day” during a car stop. The officer was found to have “allowed his personal feelings to cloud his judgment as an officer of the law.”

§ 87(2)(g)



§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) is a party (**BR 06**).
- Police Officer Patrick Kurek has been a member of service for five years and has been a subject in one other CCRB complaint and two other allegations, both of which were substantiated.
 - 201608391 involved substantiated allegations of discourtesy and offensive language against Police Officer Kurek, for which the Board recommended Formalized Training. The NYPD did not render a penalty for these allegations.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On February 24, 2021, a Notice of Claim request was submitted to the NYC Comptroller's Office, the results of which will be added to the case file upon receipt.

Squad No.: 2

Investigator: Inv. Dean Inv. Dean 3/2/21
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang Alexander Opoku-Agyemang 3/2/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date